



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

**Debra Kling**  
**Knollenberg for Congress**

**AUG 19 2009**

**Howell, Michigan 48843**

**RE: MUR 6152**  
**Knollenberg for Congress Committee and**  
**Debra Kling, in her official capacity as**  
**treasurer**

**Dear Ms. Kling:**

On December 31, 2008, the Federal Election Commission notified the Knollenberg for Congress Committee, and you, as treasurer ("the Committee"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

Upon further review of the allegations contained in the complaint, and information supplied by the Committee, the Commission, on August 6, 2009, voted to dismiss this matter and accordingly, closed its file in this matter. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact me, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter G. Blumberg".

**Peter G. Blumberg**  
**Assistant General Counsel**

**Enclosure**  
**Factual and Legal Analysis**

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## **FEDERAL ELECTION COMMISSION**

### **FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Knollenberg for Congress Committee      **MUR:** 6152  
and Debra Kling, in her official capacity  
as treasurer

#### **I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission by Nadira (Daiza) Plater. See 2 U.S.C. § 437g(a)(1).

This matter involves allegations made by Complainant in connection with a letter purportedly sent by a group called the "Chaldeans for Congressman Joe Knollenberg" that advocated the re-election of Representative Joe Knollenberg. Specifically, the Complaint and its supplement, allege that the letter lacked a proper disclaimer; that the entity sending the letter failed to register and report with the Commission as a political committee and disclose any disbursements made in connection with the mailer, as required by the Act; and may have made an unreported in-kind contribution or independent expenditure by using the mailing list developed and maintained by the "Chaldean News" to distribute the mailer. The complaint also alleged that the Chaldean Chamber Political Action Committee ("Chaldean Chamber PAC") may have been involved in the letter because the return address on the letter is the address of the PAC.

#### **II. FACTUAL BACKGROUND**

On or about October 28, 2008, a letter titled "Chaldeans for Congressman Joe Knollenberg" was sent to 1,500 households in Michigan's 9<sup>th</sup> Congressional District. The letter praises the accomplishments of Representative Knollenberg, the incumbent candidate in the 2008 general election, and concludes with the statement "[p]lease join us in casting your ballot for Congressman Joe Knollenberg on Tuesday, November 4<sup>th</sup>." The letter is signed by eighteen

29044251473

individuals, and an address appears at the bottom of the letter. The return address on the envelope containing the letter shows the name "Chaldeans for Knollenberg" and has the same address that appears at the bottom of the letter.

The original complaint alleges that the letter is a public communication that "clearly advocates for the election of a candidate for federal office," but it is missing the required authorization statement indicating whether a candidate or candidate's committee authorized the communication. *See* 2 U.S.C. § 441d(a); 11 C.F.R. §§ 100.26, 100.27, and 110.11. In addition, the complaint appears to raise doubts as to whether the letter was actually paid for by "Chaldeans for Congressman Joe Knollenberg," noting that the address listed for the organization on the letter is the same address as the Chaldean Chamber PAC.<sup>1</sup> Martin Manna serves as the treasurer of the Chaldean Chamber PAC. The complaint then infers, based on the number of likely recipients, that the letter exceeded the \$1,000 reporting threshold, and asserts that neither "Chaldeans for Congressman Joe Knollenberg" nor the Chaldean Chamber PAC is registered and reporting with the Commission. 2 U.S.C. §§ 433 and 434(b). Further, Complainant submitted a supplement to the complaint which alleges that the respondents may have made an unreported in-kind contribution or independent expenditure in connection with the letter by using a mailing list developed and maintained by the "Chaldean News" to distribute the letter. 2 U.S.C. § 434(b); 11 C.F.R. §§ 100.52 and 100.111. In the supplement, Complainant states that the letter was addressed to her using her maiden name (Nadira Daiza). However, Complainant explains that she has not used that name in 35 years except to subscribe to a publication called the Chaldean News and that the Chaldean News is the only mailing she has received under her maiden name.

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<sup>1</sup> The Chaldean Chamber Political Action Committee is registered as a state political committee in Michigan, but is not registered and reporting with the Commission. *See* [http://www.chaldeanchamber.com/loomis/index.php?option=com\\_content&task=view&id=22&Itemid=44](http://www.chaldeanchamber.com/loomis/index.php?option=com_content&task=view&id=22&Itemid=44) (last visited June 27, 2009). The complaint refers to the Chaldean Chamber Political Action Committee as the Chaldean Chamber of Commerce Political Action Committee, presumably as a result of a simple error.

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Complainant further states that the Chaldean News shares the same address as the Chaldean Chamber PAC and the return address listed on the Knollenberg mailer. Thus, the complainant alleges that the respondents' use of the Chaldean News mailing list results in a contribution or expenditure.

The available information indicates that the "Chaldeans for Congressman Joe Knollenberg" is not a real organization but was merely the name used by supporters of Knollenberg as an expression of solidarity. It also appears that the Chaldean Chamber PAC had nothing to do with the letter and that it was actually Martin Manna, the Chaldean Chamber PAC's treasurer, who prepared and paid for the letter, but that he did so in his individual capacity, and not on behalf of the Chaldean-American Chamber of Commerce or its PAC.

It appears that Manna paid approximately \$740 of his own funds (\$630 in stamps, \$40 in paper and \$70 in envelopes) to mail the letter, which was sent to approximately 1,500 households with Chaldean-American members. The response also indicated that Manna used a variety of sources to obtain names for the mailing list for the letter, including publicly available directories from various Chaldean organizations that are free of charge and two membership lists from the Chaldean News and the Chaldean American Chamber of Commerce which are only available to members but are free of charge.

It also appears that Manna may have discussed the letter and its contents with Representative Knollenberg and Bryce Sandler, a campaign staff member, on several occasions, and that the candidate orally approved of the letter. Manna apparently contacted the candidate on several occasions and specifically advised him of the letter and its contents, and the candidate orally approved the letter. The letter does not appear to have been specifically endorsed by the candidate, but it appears that the candidate clearly supported the letter and its contents. Manna

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reportedly called Bryce Sandler, a committee staff member, on at least three occasions, advised him of the contents of the letter, and asked whether the letter needed a disclaimer and what he had to do to avoid problems. Sandler apparently told Manna there would be no problem. On October 28, 2008, Manna apparently advised the Committee through an email to Sandler that the letter was being mailed and provided an estimate cost of \$2,000 for the letter. <sup>2</sup>

Bryce Sandler filed a response to the complaint on behalf of the Knollenberg for Congress Committee ("the Knollenberg Committee") indicating that the letter did not come from Knollenberg or the Knollenberg Committee, was not paid for by Knollenberg or the Knollenberg Committee and was not authorized by Knollenberg or the Knollenberg Committee.

### III. ANALYSIS

The complaint alleges that the entity that sent the letter may have made, but failed to report, an in-kind contribution or independent expenditure in connection with the costs of the letter and with the use of a mailing list developed and maintained by the "Chaldean News" to distribute the letter.

The Act defines the term "contribution" to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i); 11 C.F.R. § 100.52(a). The term "anything of value" includes membership lists and mailing lists. 11 C.F.R. § 100.52(d)(1). An expenditure made by any person "in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees or their agents" constitutes an in-kind contribution to the candidate. 2 U.S.C. § 441a(a)(7)(B)(i). A communication is

<sup>2</sup> The \$2,000 was apparently Manna's initial estimate of the costs of the letter, costs which he subsequently itemized and aggregated at only \$740. The costs of the letter were not reported as in-kind contributions by the Knollenberg Committee. However, the Knollenberg Committee disclosure reports reflect that Manna made a \$1,175 in-kind contribution, dated October 25, 2008, for "advertising," apparently related to a Knollenberg advertisement published in a Chaldean newspaper and funded by Manna, and a \$500 direct contribution, dated October 29, 2008.

coordinated with a candidate, a candidate's authorized committee, or agent of either when the communication satisfies the three-pronged test set forth in 11 C.F.R. § 109.21(a): (1) the communication is paid for by a person other than a candidate, the candidate committee, or an agent of either; (2) the communication satisfies at least one of the content standards set forth in 11 C.F.R. § 109.21(c); and (3) the communication satisfies at least one of the conduct standards set forth in 11 C.F.R. § 109.21(d).

The available information indicates that Manna paid for the letter. Therefore, the payment prong of 11 C.F.R. § 109.21(a)(1) is satisfied.

The content prong is satisfied if the letter is a public communication that contains express advocacy. *See* 11 C.F.R. § 109.21(c)(3). A public communication includes a mass mailing (more than 500 substantially similar mailings within 30 days). *See* 11 C.F.R. §§ 100.26 and 100.27. Express advocacy is defined as including any communication that uses phrases such as "Vote for the President," "re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for U.S. Senate in Georgia," and "Smith for Congress." 11 C.F.R. § 100.22(a). The available information indicates that the letter was a public communication because it appears that the letter was sent to 1500 individuals, and therefore, it was a mass mailing. 2 U.S.C. § 441d(a); 11 C.F.R. §§ 100.26, 100.27, and 110.11. Second, the letter expressly advocates the re-election of Joe Knollenberg. The letter praises the accomplishments of Representative Knollenberg, a Federal candidate, and closes with the statement "[p]lease join us in casting your ballot for Congressman Joe Knollenberg on Tuesday, November 4<sup>th</sup>." This language clearly falls within the definition of express advocacy. 11 C.F.R. § 100.22(a). Thus, the letter satisfies the content prong.

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The conduct prong of the coordinated communications regulations is satisfied if, among other things, the communication is created, produced, or distributed at the suggestion of a person paying for the communication and the candidate, authorized committee, or agent thereof, assents to the suggestion; if the candidate, authorized committee, or agent is "materially involved in decisions" regarding the content of the communication, intended audience, means or mode of the communication, specific media outlet used, timing or frequency of the communication, or size or prominence of a printed communication or duration of a communications by means of a broadcast, cable or satellite; or if a communication is created, produced or distributed after one or more substantial discussions between the person paying for the communication and the candidate, candidate's committee, or agent thereof. 11 C.F.R. § 109.21(d). Based on the available information regarding the purported conversations between Manna and the Knollenberg Committee, it appears that the letter may have been created, produced, or distributed at the suggestion of Manna and Knollenberg may have assented to the letter. It is also possible that Knollenberg and/or Sandler may have been materially involved in decisions regarding the letter or that the letter was created, produced, or distributed after one or more substantial discussions between Manna and Knollenberg and Manna and Sandler. *See discussion supra at 3-4.*

An in-kind contribution is treated as both a "contribution" to and an "expenditure" by the political committee receiving the in-kind contribution. 11 C.F.R §§ 100.111(e); 104.13(a)(2). An authorized committee of a candidate must report and itemize all contributions received from individuals that aggregate in excess of \$200 per election cycle. 2 U.S.C. § 434(b); 11 C.F.R. § 104.3(a)(4). An in-kind contribution must also be reported as an expenditure on the same report. 11 C.F.R. §§ 104.3(b) and 104.13(a)(2).

It appears that the disbursements made in connection with the letter, including any value associated with the use of a pre-existing mailing list, should have been reported either as an independent expenditure, or, if coordinated with Knollenberg, as both a contribution to and an expenditure by the Knollenberg Committee. The available information provided some evidence that the communication was coordinated with Knollenberg. Nevertheless, even if the expenditure was coordinated, the value of any mailing lists used to distribute the letter is unknown, is likely to be minimal, and would be difficult to ascertain because the lists are not commercially available.

Given the lack of information and the *de minimis* nature of the violation, the Commission has exercised its prosecutorial discretion to dismiss the allegations that Knollenberg for Congress Committee, and Debra Kling, in her official capacity as treasurer, violated the Act. *See Heckler v. Chaney*, 270 U.S. 821 (1985).

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